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ONTARIO

**FAMILY LEGISLATION  
ADMINISTERED BY THE  
JUVENILE AND FAMILY  
COURTS**

*Department of the Attorney-General*





## THE ATTORNEY-GENERAL

This booklet has been designed in order that you may know the type of family matters dealt with by The Juvenile & Family Courts in Ontario. Since the first Juvenile & Family Court was established in Toronto in 1912, these courts have increased at the rate of one a year, there now being 46 such courts to serve the communities large or small, urban or rural in this Province.

Since 1954, these courts have been known as "Juvenile & Family Courts" combining as a unit the juvenile aspect and the family aspect of the work done by the courts. The courts deal with juvenile delinquents under the Juvenile Delinquents Act and also have power to try children charged with offences against the laws of Ontario. On the family side the courts have power to deal with cases under any acts which confer jurisdiction upon them such as The Deserted Wives' and Children's Maintenance Act, The Children's Maintenance Act, The Parents' Maintenance Act and certain parts of The Child Welfare Act. Last year the Juvenile & Family Courts in Ontario handled some 16,444 cases arising out of the above legislation and it is this aspect of the court's work that is covered in this booklet.

Our appreciation is extended to Miss Elizabeth Newton, Q.C., who ably assisted officials of the Department in the preparation of this work.


May 25th, 1959.



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*This summary was prepared  
by  
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## **DESERTED WIVES' AND CHILDREN'S MAINTENANCE ACT**

### **DEFINITIONS**

#### ***Deserted Wife***

A deserted wife under this Act is one whose husband has deserted her without making adequate provision for her maintenance and that of the children residing with her and, although able to maintain his family in whole or in part, refuses or neglects to do so.

The definition includes a wife who is living apart from her husband because of his failure to provide her with necessities or because of his adultery, not condoned by her, or because of his acts of cruelty, including cases where no actual acts of violence may have been committed but the home is an unfit place for wife or children because of his conduct which causes "reasonable apprehension" of bodily injury or injury to health.

#### ***Deserted Child***

A deserted child under this Act is one under sixteen years of age, whose father has deserted him or wilfully refused or neglected to supply him with food or other necessities, although able so to do.

### **INELIGIBILITY OF WIFE**

No order will be made in favour of a wife who has committed adultery, unless it was condoned, and an order may be rescinded if the wife is proved to have committed adultery, not condoned, since the order was made.

### **EFFECT OF A SEPARATION AGREEMENT**

If there has been a separation agreement and default has occurred, the wife may apply for and be granted an order even if the agreement expressly excludes the operation of this Act.

### **COURT PROCEDURE**

#### ***Complaint***

An application under this Act may be made by a deserted wife or child or by a person having the care and custody of a deserted child or, with the consent of the Crown Attorney, by any other person.

#### ***Summons***

The husband or father will be summoned to appear before a magistrate or before a judge of a juvenile and family court.

### **Hearing**

An application may be heard in private.

### **Order**

If the wife is found to be a "deserted wife", the husband will be ordered to pay to her such sum at such intervals as the magistrate or judge thinks proper, having regard to all the circumstances of the case.

If the child is found to be a "deserted child", the father may be ordered to make periodic payments for the child's support to the person named in the order. The order may also make provision for the custody of the child and right of access to him.

### **Review and Appeal**

Where the circumstances of any of the parties have changed or evidence, not available at the hearing, has become available, a new hearing may be directed at which the order may be confirmed, varied or rescinded.

An appeal from an order made under this Act may be heard at such time as the judge of the court to which the appeal is taken may appoint.

### **Enforcement**

If default is made in payment of any sum of money ordered to be paid, the person in default may be summoned to appear before a judge of a juvenile and family court or before a magistrate to explain the default and, if he fails to appear without sufficient reason or if the summons could not be served, a warrant may be issued for his arrest.

If he fails to satisfy the judge or magistrate that his default

His Honour, Judge Garvin of the Juvenile & Family Court, County of Frontenac is pictured in his Chambers with the Court's staff—Mrs. Madeleine McRae (left) and Mrs. Grace Price, Reporters, Mr. H. E. Bishop (left) and Mr. Roy S. Tear, Probation Officers.



is due to his inability to pay, he may be imprisoned for a term of not more than three months unless the sum payable under the order or a lesser sum, if the judge or magistrate so orders, is sooner paid.

An order for payment of money may be filed with the clerk of a Division Court and enforced by garnishee proceedings, by execution or by judgment summons in the same manner as a Division Court judgment.

### ***Enforcement In Other Jurisdictions***

IN ONTARIO in cases of default in payment, a duplicate original of the order, with as full a statement of the circumstances as is available, may be sent to the juvenile and family court judge or to a magistrate in any district where the person ordered to pay resides. Such judge or magistrate shall then summon the person in default to explain the default and, if he is satisfied that the order should be enforced, he may take the necessary action to enforce it and, when he has done so, he will send a report to the judge or magistrate who made the order.

OUT OF ONTARIO—Provision for the enforcement of orders in many jurisdictions out of Ontario is made by the Reciprocal Enforcement of Maintenance Orders Act.

## **CHILDREN'S MAINTENANCE ACT**

This Act places a legal duty upon a parent to provide maintenance and education for his child under the age of sixteen years regard being taken to the parent's station in life and means, and to the ability of the child to maintain himself.

## **PARENTS' MAINTENANCE ACT**

This Act imposes on children, who are able to do so, the liability to support or contribute to the support of their parents if the parents are dependent.

### **DEFINITION**

#### ***Dependent Parent***

A dependent parent under this Act is one who is destitute or unable to support himself because of age, illness or infirmity.

### **COURT PROCEDURE**

#### ***Complaint***

The dependent parent or a representative of a hospital, home for the aged or other charitable institution or of a municipality or government agency may lay an information before a Justice of the Peace. Any other interested person may also lay an information if the consent of the Crown Attorney has been obtained.

#### ***Hearing and Order***

One or more of the sons or daughters of the dependent parent will then be summoned to appear before the Court when all the

circumstances of the case will be considered and, if the judge or magistrate finds that the parent is "dependent" and that one or more of the children are able to provide in whole or in part for the parent's support, he will make an order requiring them to pay such sums as he thinks proper. The money will be payable at intervals not exceeding thirty-one days, commencing from the date of the hearing or any other date that may be set, and the weekly rate will not exceed twenty dollars. The children may also be ordered to make payments for the support of the parent for the period between the date when the information was laid and that of the hearing.

### ***Review***

If the circumstances of the parent or of the child or children who have been ordered to make the payments should change, the matter may be heard again and the order confirmed, varied or rescinded according to the findings of the judge or magistrate.

### ***Enforcement***

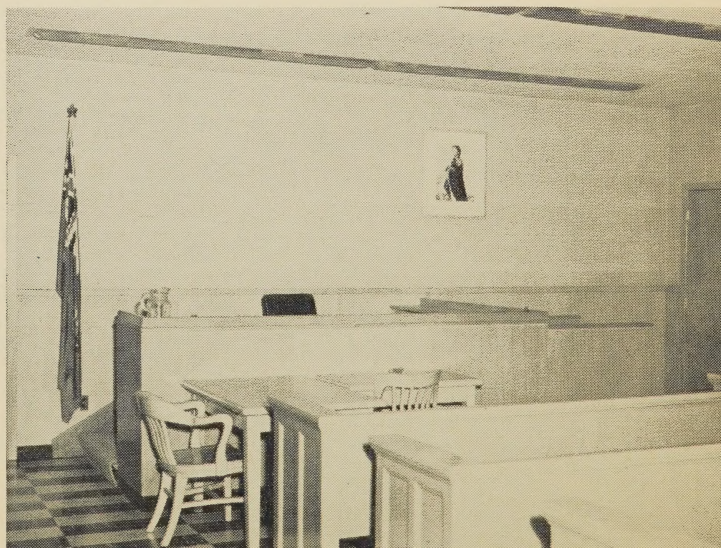
The order may be enforced in the same way as an order under The Deserted Wives' and Children's Maintenance Act. It may also be enforced under The Reciprocal Enforcement of Maintenance Orders Act.

## **RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS ACT**

Maintenance orders made in Ontario may be sent to reciprocating states for registration and enforcement and maintenance orders made by reciprocating states may be registered and enforced in Ontario.

Moreover, provisional orders may be made in Ontario against persons residing in reciprocating states. They are sent to the recip-

Used solely for the work of the Juvenile & Family Court at Windsor, this court room, located in the Municipal Courts Building, is regarded as a model court room.



rocating state and, when confirmed by a competent court there, they become enforceable. Similarly, provisional orders made in reciprocating states against Ontario residents may be confirmed and enforced in Ontario.

A court in which an order has been registered or confirmed under this Act and its officers must take all proper steps to enforce the order as if it were one of its own judgments.

The following provinces and countries have been proclaimed reciprocating states:

Alberta	Capital Territory of Australia
British Columbia	England
Manitoba	Guernsey, Alderney and Sark
New Brunswick	Isle of Man
Newfoundland	Malta and its dependencies
Northwest Territories	New South Wales
Nova Scotia	New Zealand and the Cook Islands
Prince Edward Island	Northern Ireland
Quebec	Northern Territory of Australia
Saskatchewan	Papua and New Guinea
Yukon	Queensland
	South Australia
	Southern Rhodesia
	States of Jersey
	Tasmania
	Union of South Africa
	Victoria
	Western Australia

## **CHILD WELFARE ACT**

In 1954 this Act was passed to consolidate and revise The Children's Protection Act, The Children of Unmarried Parents Act and The Adoption Act. It came into force on January 1st, 1955. Part III, dealing with the protection of children born out of wedlock, was replaced in 1956 and Part IV, dealing with adoption, in 1958.

Part II, Protection and Care of Neglected Children and Part III, Protection of Children Born Out Of Wedlock, come within the jurisdiction of the Juvenile & Family Courts.

## **PROTECTION AND CARE OF NEGLECTED CHILDREN**

### **DEFINITIONS**

"Child" is defined as a boy or girl actually or apparently under sixteen years of age.

"Neglected child" has a very wide definition, including an orphan who is not being properly cared for; a child who is deserted by the person in whose charge he is or when such person has died or is unable for any reason to care properly for him; a child who is living in an unfit or improper place or is associating

with unfit or improper people or is begging or receiving alms in a public place, carrying on a street trade or loitering in public places after nine o'clock at night; a child who habitually absents himself from school or home or who is delinquent or incorrigible or growing up to be idle or dissolute for want of proper control and training; a child for whom "medical, surgical or other remedial care or treatment, necessary for his health" is not provided or one who is "emotionally rejected or deprived of affection" to a dangerous degree or "a child whose life, health or morals may be endangered by the conduct of the person in whose charge he is."

## COURT PROCEDURE

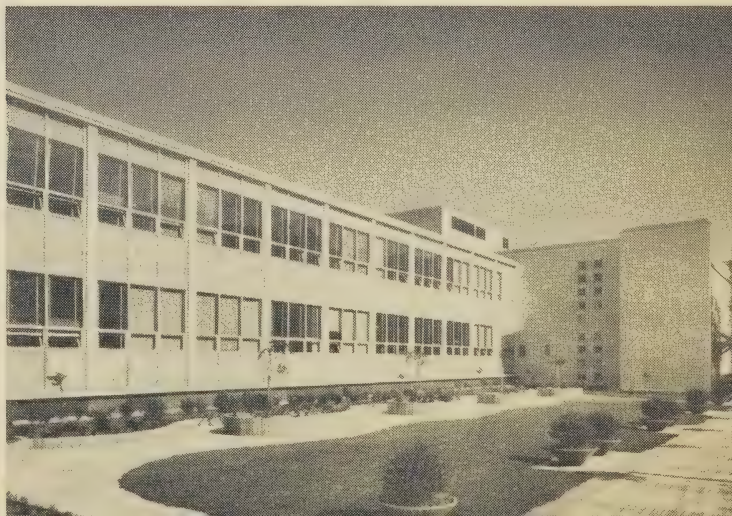
### *Hearing*

A child who appears to be a "neglected child" may be brought before a judge of the juvenile and family court. The judge will hold a hearing to determine whether or not the child is a neglected child for which purpose he has the power of summoning and enforcing the attendance of witnesses and compelling them to give evidence and to produce any necessary documents. He may hear persons on behalf of the child, of the children's aid society, of the municipality and of the Province of Ontario.

Reasonable notice of the hearing must be given to the parent or the person having actual custody of the child and to the municipality that may be liable to pay the cost to the children's aid society of providing for the child. If it appears that the Province of Ontario may be made liable to pay such costs, reasonable notice of the hearing must be given to the regional welfare administrator of the Department of Public Welfare.

The hearing shall be held in premises specifically maintained for that purpose or in the judge's private office or other suitable place but not in the ordinary court room.

Officially opened June 21st, 1957 the Juvenile & Family Court of Metropolitan Toronto is one of the few courts in the world that has combined in the one building, its Court rooms, Administrative offices, private offices for Probation Officers, Behaviour Clinic, and Children's Detention Observation Wing.



All persons shall be excluded from the hearing other than the counsel and witnesses, officers of the law or of the children's aid society and the immediate relatives or friends of the child or parent and the judge may exclude any of the latter as he thinks proper.

### ***Order***

Where the judge finds the child to be a neglected child, he shall order:

- (a) that the case be adjourned indefinitely and the child be placed with or returned to his parent, guardian or some other person, subject to the supervision of the children's aid society; or
- (b) that he be committed temporarily to the care of the children's aid society for a period not exceeding twelve months; or
- (c) that he be committed permanently to the care and custody of the children's aid society; and
- (d) that the municipality pay the rate in respect of the child so long as he remains in the care of the society.

Where the judge finds that the parent is able to contribute towards the child's maintenance, he shall order contribution in cases of temporary commitment and may order it in cases of permanent commitment but the municipality is not relieved from liability for the rate.

### ***Review***

The case may, at any time, be brought before the judge for further consideration.

## **PROTECTION AND CARE**

### ***Care of the Child***

Where the child has been permanently committed to the care of the society, the society shall be his legal guardian until he attains the age of eighteen years, or until he has been adopted or until some other legal guardian has been appointed or the wardship has been terminated by the judge at a re-hearing of the case. The judge may, upon the application of the society and if he considers it to be in the interest of the welfare of the ward, extend the wardship beyond his eighteenth birthday but not beyond his twenty-first birthday. The municipality will be relieved from paying the rate for the extended period.

Where a child has been committed under this Part of the Act or a parent has abandoned his child or allowed him to be brought up by another person at that person's expenses, the judge will not make an order returning the child to the parent unless he is satisfied that the parent is a fit person to have the custody of the child. The child's wishes will be considered. If the child is returned, the parent may be ordered to pay the whole of the expense properly

incurred in bringing up the child or such portion as may seem just.

The children's aid societies may place their wards in foster homes or other suitable places for any period of time and they shall receive the care, training and education that a good parent would provide for his own child.

A ward so placed in a foster home may at any time be removed if the Director or the Local Director considers that the welfare of the ward requires it.

### ***Religion***

A child is deemed to have the same religious faith as his father unless an agreement in writing, signed by both parents, that he be brought up in his mother's faith is shown. An illegitimate child is deemed to have the religious faith of his mother. Protestant children are cared for by Protestant children's aid societies and Roman Catholic children by Roman Catholic children's aid societies. When placing children in foster homes, they are placed, as far as possible, with families of their own faith. The judge may have regard to the child's wishes in determining what order to make as to the child's faith.

### ***Protection of the Child***

Penalties are provided for any interference with wards or foster parents; for neglect, desertion or ill treatment of a child under one's care or for leaving such child unattended for an unreasonable time; for causing a child to beg or receive alms in public places or to sing, play, perform for profit or offer anything for sale in a public place between the hours of nine in the evening and six in the morning or to perform for profit in any circus, theatre, etc.

Provision is made, however, for granting a license for a child to perform in public when it is shown that arrangements have been made to ensure that the child will be well looked after and that the approval of the children's aid society has been obtained. The municipal council will assign, the duty of seeing that all the conditions under which the license is granted are fulfilled, to a person who will be authorized to enter and inspect any place where the child is employed.

No girl under sixteen years of age or boy under twelve years may engage in any trade or occupation and no boy over twelve years but under sixteen may do so between nine o'clock in the evening and six o'clock the next morning.

No boy or girl under sixteen years may loiter in any public place between nine o'clock in the evening and six in the morning or be in any place of public resort or entertainment during those hours unless accompanied by a parent or guardian or an adult appointed by the parent or guardian.

A child charged with an offence or who is brought before a judge under this Part shall not, before his trial or hearing, be confined in a lock-up or a police cell used for persons charged with crime. Thus arrangements must be made by municipal councils for the separate detention of children in such circumstances either by having them looked after by some person or society or by providing suitable premises "entirely distinct and separated from the ordinary lock-ups and police cells."

Similarly, after the trial or hearing "a child remanded in custody for sentence or under sentence in jail or other place of confinement shall not be placed or allowed to remain in the same cell or room with or be in the company of adult prisoners."

### **PROTECTION OF CHILDREN BORN OUT OF WEDLOCK**

Nothing in this Part of the Child Welfare Act requires a children's aid society to interfere where a child born out of wedlock has been adopted in accordance with the laws of Ontario or is being properly looked after voluntarily.

### **PRIOR TO COURT ORDER**

#### ***Agreement***

Where a child is born out of wedlock and there is no agreement between the mother and the putative father as to his care and maintenance, the children's aid society and the mother may enter into an agreement with the putative father for the payment by him of money in respect of the expenses for the maintenance and care, medical or otherwise, of the mother during pregnancy and



New accommodation such as this court room for the County of Wellington at Guelph is constantly being provided for The Juvenile & Family Courts in the Province.

at the birth of the child, her burial expenses if she dies as a result of pregnancy or of the birth of the child and the burial expenses of the child if he has died and also for the payment of a fixed amount or of periodic payments for the maintenance of the child until he attains the age of sixteen years or until he is adopted or dies.

If the financial circumstances of the putative father change, the agreement may be varied.

### ***Terms***

If the agreement is for the payment of a fixed sum for maintenance of the child, it will provide that the money be paid within twelve months from the date that the agreement was made.

All payments will be made to the society which is a party to the agreement to be disbursed by it.

### ***Default***

Where the putative father is in default under such agreement, the mother or the society or both may make an application to a judge for an affiliation order. Where the putative father is in default under the agreement for sixty days and no application for an affiliation order has been made, the society shall make an application within the next thirty days.

Where an application has been made in consequence of default under an agreement, the agreement is *prima facie* proof that the putative father is in fact the father of the child.

## **COURT PROCEDURE**

### ***Application for Affiliation Order***

Applications for affiliation orders may also be made:—by the mother of a child born out of wedlock; by the next friend or guardian of such a child; by a children's aid society or, with the approval of a society, by any person or municipality having an apparently legitimate claim for reimbursement of moneys paid in consequence of the pregnancy of the mother, the birth of the child, the death of the child, the maintenance of the mother or the child.

A society may institute or continue proceedings even though the mother has died.

No such order will be made unless the application is made in the lifetime of the putative father and

- (a) within two years from the birth of the child;
- (b) within one year after the doing of any act on the part of the putative father that affords evidence of acknowledgment of paternity;

- (c) within one year after the return to Ontario of the putative father where he was absent from Ontario at the expiration of the period of two years from the birth of the child; or
- (d) the putative father has failed in whole or in part to carry out the terms of any agreement made under this Act.

All proceedings shall be heard by the judge in private.

### ***Affiliation Order***

No affiliation order shall be made upon the evidence of the mother unless it is corroborated by some other material evidence.

If sufficient evidence is adduced, the judge may make an order declaring the putative father to be in fact the father of the child and requiring him, "in accordance with the circumstances of the case" to pay the above mentioned expenses and maintenance. The mother of the child may also be ordered to make periodic payments or to pay a fixed amount to assist in the maintenance of the child until he reaches the age of sixteen years or until he is adopted or dies.

The judge will fix the payments having regard to the standard of living which the child might have enjoyed had his parents been married and also to the ability of the father and the mother to provide for him. The order for the payment of money may at any time be varied or rescinded by the judge.

### ***Appeal***

With leave of a judge of the Supreme Court, any person may appeal from the order to the Appeal Court within thirty days from the making of the order.



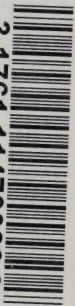
Commencing in June The Juvenile & Family Court for the District of Sudbury will be held in this modern court in Sudbury.

***Estate of Father***

An agreement or an order to pay money under this Part binds the estate of the putative father or father after his death and moneys payable thereunder are a debt of the estate and are recoverable; but if it appears to the judge that the terms of the agreement or order could not be carried out without depriving the widow or legitimate children of the putative father of necessities of life, he may vary the terms so as to make equitable provision for the widow, the legitimate child or children and the child or children born out of wedlock.

*Additional copies of this booklet may be obtained  
by writing the Department of the Attorney-General,  
Parliament Buildings, Toronto 2.*





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